

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

In re TYRONE NOEL NUNN,
Plaintiff.

Case No. 2:24-cv-01642-GMN-MDC
DISMISSAL ORDER

Plaintiff Tyrone Noel Nunn attempted to initiate a lawsuit in federal court but failed to file a complaint or satisfy the matter of the filing fee. On September 13, 2024, this Court ordered Plaintiff to submit a complaint and file a fully complete application to proceed *in forma pauperis* or pay the full \$405 filing fee on or before October 11, 2024. (ECF No. 3.) The Court warned Plaintiff that the action could be dismissed if he failed to submit a complaint and file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$405 filing fee for a civil action by that deadline. (*Id.* at 2-3.) That deadline expired and Plaintiff did not submit a complaint, file a fully complete application to proceed *in forma pauperis*, pay the full \$405 filing fee, or otherwise respond.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket;

1 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
2 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
3 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
4 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

5 The first two factors, the public's interest in expeditiously resolving this litigation
6 and the Court's interest in managing its docket, weigh in favor of dismissal of Plaintiff's
7 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
8 because a presumption of injury arises from the occurrence of unreasonable delay in filing
9 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
10 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
11 cases on their merits—is greatly outweighed by the factors favoring dismissal.

12 The fifth factor requires the Court to consider whether less drastic alternatives can
13 be used to correct the party's failure that brought about the Court's need to consider
14 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
15 that considering less drastic alternatives *before* the party has disobeyed a court order
16 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
17 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
18 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
19 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
20 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
21 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
22 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
23 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until
24 and unless Plaintiff submits a complaint and either files a fully complete application to
25 proceed *in forma pauperis* or pays the \$405 filing fee for a civil action, the only alternative
26 is to enter a second order setting another deadline. But the reality of repeating an ignored
27 order is that it often only delays the inevitable and squanders the Court's finite resources.
28 The circumstances here do not indicate that this case will be an exception: there is no

1 hint that Plaintiff needs additional time or evidence that he did not receive the Court's
2 order. Setting another deadline is not a meaningful alternative given these circumstances.
3 So the fifth factor favors dismissal.

4 **II. CONCLUSION**

5 Having thoroughly considered these dismissal factors, the Court finds that they
6 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
7 prejudice based on Plaintiff's failure to submit a complaint and file a fully complete
8 application to proceed *in forma pauperis* or pay the full \$405 filing fee in compliance with
9 this Court's September 13, 2024, order. The Clerk of Court is directed to enter judgment
10 accordingly and close this case. No other documents may be filed in this now-closed
11 case. If Plaintiff wishes to pursue his claims, he must file a complaint in a new case and
12 satisfy the matter of the filing fee.

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14 DATED: October 18, 2024.

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18 Gloria M. Navarro, Judge
19 United States District Court
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